

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

EUGENE JONES II,

Plaintiff,

No. CIV S-04-2739 DFL KJM P

vs.

MICHAEL KNOWLES, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief under 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis under 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 72-302 under 28 U.S.C. § 636(b)(1).

Plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

Plaintiff is required to pay the statutory filing fee in effect at the time this action was filed, \$150.00. 28 U.S.C. §§ 1914(a), 1915(b)(1). Plaintiff has been without funds for six months and is currently without funds. Accordingly, the court will not assess an initial partial filing fee. 28 U.S.C. § 1915(b)(1). Plaintiff is obligated to make monthly payments of twenty percent of the preceding month's income credited to plaintiff's prison trust account. These payments shall be collected and forwarded by the appropriate agency to the Clerk of the Court

1 each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28  
2 U.S.C.  
3 § 1915(b)(2).

4 Plaintiff's complaint states a cognizable claim for relief under 42 U.S.C. § 1983  
5 and 28 U.S.C. § 1915A(b). If the allegations of the complaint are proven, plaintiff has a  
6 reasonable opportunity to prevail on the merits of his denial of access to courts claim against  
7 defendant Alameida. Therefore, the court will order service of process on defendant Alameida.  
8 With respect to the other claims and defendants identified in plaintiff's complaint, plaintiff's  
9 complaint fails to state a claim upon which relief can be granted.

10 In accordance with the above, IT IS HEREBY ORDERED that:

11 1. Plaintiff's request for leave to proceed in forma pauperis is granted.

12 2. Plaintiff is obligated to pay the statutory filing fee of \$150.00 for this action.

13 The fee shall be collected and paid in accordance with this court's order to the Director of the  
14 California Department of Corrections filed concurrently herewith.

15 3. Service is appropriate for defendant Alameida.

16 4. The Clerk of the Court shall send plaintiff a USM-285 form, a summons, an  
17 instruction sheet and a copy of the complaint filed October 13, 2004 in the United States District  
18 Court for the Northern District of California.

19 5. Within thirty days from the date of this order, plaintiff shall complete the  
20 attached Notice of Submission of Documents and submit the following documents to the court:

21 a. The completed Notice of Submission of Documents;

22 b. One completed summons;

23 c. One completed USM-285 form; and

24 d. Two copies of the endorsed complaint filed October 13, 2004 in the  
25 Northern District.

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1           6. Plaintiff need not attempt service on defendant Alameida and need not request  
2 waiver of service. Upon receipt of the above-described documents, the court will direct the  
3 United States Marshal to serve defendant Alameida under Federal Rule of Civil Procedure 4  
4 without payment of costs.

5 DATED: May 19, 2005.

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9 UNITED STATES MAGISTRATE JUDGE  
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NOTICE OF SUBMISSION  
OF DOCUMENTS

\_\_\_\_\_/

Plaintiff hereby submits the following documents in compliance with the court's  
order filed \_\_\_\_\_:

\_\_\_\_\_ completed summons form

\_\_\_\_\_ completed USM-285 form

\_\_\_\_\_ copies of the \_\_\_\_\_  
Complaint

DATED:

\_\_\_\_\_  
Plaintiff